



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

NPDES General Permits

LSA Document #10-659

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Description

Adds new rules, amends rules and repeals rules in 327 IAC 5 and 327 IAC 15 concerning National Pollutant Discharge Elimination System (NPDES) general permits governed by 40 CFR 122 to correct deficiencies in Indiana's general permit program identified by the U.S. Environmental Protection Agency (EPA).

Citations Affected

327 IAC 5; 327 IAC 15.

Affected Persons

The following persons and activities may potentially be affected by general permits issued under this rulemaking:

- 1) Storm water discharges associated with industrial activity.
- 2) Storm water discharges associated with construction activity.
- 3) Small municipal separate storm sewer system discharges.
- 4) Discharges of pesticides to waters of the state.
- 5) Discharges of treated sewage from on-site residential sewage discharging disposal systems within the Allen County on-site waste management district.
- 6) Other similar categories or subcategories of discharges or sludge use or disposal practices or facilities, sites, and entities operating within the state.

Reason(s) for the Rule

IDEM is taking this action for the following reasons:

- 1) Current Indiana general permits (permits by rule) issued by the Water Pollution Control Board (board) are not consistent with the Clean Water Act due to the makeup of the board.
- 2) Indiana general permits do not provide for a 5 year renewal process as required by the Clean Water Act NPDES permit standards.
- 3) Indiana NPDES general permits have not been revised and in general no longer meet Clean Water Act standards. As a result, these permits no longer provide adequate protection from enforcement action and citizen suits to discharging entities.

Economic Impact of the Rule

Because this rule transfers authority for issuing NPDES general permits from the board to the commissioner and does not set permit standards, there are no direct costs associated with this rulemaking.

Benefits of the Rule

This rule will correct deficiencies in the NPDES general permit program and make that program consistent with current Clean Water Act standards and national permits.



Description of the Rulemaking Project

This rule removes the current standards for NPDES general permits that are permits by rule and transfers the authority to issue NPDES general permits to the commissioner.

Public Notices

First Notice of Comment Period: October 27, 2010, Indiana Register (DIN: 20101027-IR-327100659FNA).

Continuation of First Notice of Comment Period: September 7, 2011, Indiana Register (DIN: 20110907-IR-327100659FCA).

Second Notice of Comment Period: May 2, 2012, Indiana Register (DIN: 20120502-IR-327100659SNA)

Notice of Public Hearing: May 2, 2012, Indiana Register (DIN: 20120502-IR-327100659PHA)

Change in Notice of Public Hearing: June 13, 2012, Indiana Register (DIN: 20120613-IR-327100659CHA)

Scheduled Hearings

First Public Hearing: July 25, 2012.

Second Public Hearing: Not yet scheduled.

Consideration of Factors Outlined in Indiana Code 13-14-8-4

Indiana Code 13-14-8-4 requires that in adopting rules and establishing standards, the board shall take into account the following:

- 1) All existing physical conditions and the character of the area affected.
- 2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- 3) Zoning classifications.
- 4) The nature of the existing air quality or existing water quality, as appropriate.
- 5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- 6) Economic reasonableness of measuring or reducing any particular type of pollution.
- 7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to:
 - (A) human, plant animal, or aquatic life; or
 - (B) the reasonable enjoyment of life and property.

Consistency with Federal Requirements

This rule is consistent with the federal regulations for NPDES permits in 40 CFR 122.

Rulemaking Process

The first step in the rulemaking process is a first notice published in the *Indiana Register*. This includes a discussion of issues and opens a first comment period. The second notice is then published which contains the comments and the departments responses from the first comment period, a notice of first meeting/hearing, and the draft rule. The Solid Waste Management Board holds the first meeting/hearing and public comments are heard. The proposed rule is published in the *Indiana Register* after preliminary adoption along with a notice of second meeting/ hearing. If the proposed rule is substantively different from the draft rule, a third comment period is required. The second public meeting/hearing is held and public comments are heard. Once final adoption occurs, the rule is reviewed for form and legality by the Attorney General, signed by the Governor, and becomes effective 30 days after filing with Legislative Services.

Additional Information

Additional information regarding this rulemaking action can be obtained from Steve Mojonniere, Rules Development Branch, Office of Legal Counsel, (317) 233-1655 or (800) 451-6027 (in Indiana).

